

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**CHRIS J COLLINS**  
Claimant

**APPEAL NO. 10A-UI-08760-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AVAS CONSTRUCTION COMPANY INC**  
Employer

**OC: 03/14/10**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(3)a – Work Refusal

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 14, 2010 (reference 01) decision that denied benefits effective May 1, 2010. After due notice was issued, a telephone conference hearing was held on August 16, 2010. Claimant participated. Employer participated through Office Manager Jane Hall and President/Owner Margaret Platek.

**ISSUE:**

The issue is whether an offer of work was made, if claimant refused a suitable offer of work, and if so, whether the refusal was for a good-cause reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Employer made an offer of work to claimant by project manager Robert Nawojski on April 30, 2010. That offer included the following terms: full-time equipment operator (bobcat, excavator), \$15.00 per hour (\$600.00 per week). The wage offered for the job is comparable to the prevailing rate of pay for similar work in the Council Bluffs area. He accepted the offer and completed new hire paperwork, but did not report for work on May 3, 2010. The claimant told Nawojski that he decided to continue working for his previous employer and not work for Avas Construction. He returned to work for his previous employer on May 9, 2010 at \$16.00 per hour. Claimant's average weekly wage is \$787.69. The offer was made in the sixth week of unemployment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant did refuse a suitable offer of work.

Iowa Code § 96.5-3-a provides:

An individual shall be disqualified for benefits:

3. Failure to accept work. If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(1) One hundred percent, if the work is offered during the first five weeks of unemployment.

(2) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(3) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(4) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

871 IAC 24.23(21) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(21) Where availability for work is unduly limited because the claimant is waiting to go to work for a specific employer and will not consider suitable work with other employers.

The offer was suitable, as it did meet the wage requirements for an offer in the sixth week of unemployment, and claimant did not have a good-cause reason for the refusal by holding himself out for a specific employer. Benefits are denied effective May 1, 2010.

**DECISION:**

The June 14, 2010 (reference 01) decision is affirmed. Claimant did refuse a suitable offer of work. Benefits are withheld effective May 1, 2010 until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw